

Appl. No. : 09/078,941
Filed : May 14, 1998

REMARKS

Reconsideration and allowance of this application, as amended, is respectfully requested. Claims 8, 10-24, and 39 are pending in this application. Claims 8, 11, and 39 have been amended to further clarify Applicants' claimed invention. New Claims 40 and 41 have been added.

Applicants submit that this application, as amended, is now in condition for allowance and such action is earnestly requested. Each of the Examiner's reasons for rejection is addressed below.

Claims - § 112 Rejections

The Examiner rejected Claims 8, 10-24 and 39 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.

In regard to Claims 8 and 39, the Examiner asserts that there is no antecedent basis for "said first medical implement" and "said second medical implement." The Examiner asserts that if Applicants intend to claim both elements, the elements must be positively recited in the body of the claim and not in the preamble. Applicants have amended Claims 8 and 39 in accordance with the Examiner's suggestion. Accordingly, Applicants submit that amended Claims 8 and 39 are in compliance § 112, second paragraph, and respectfully request that this rejection be withdrawn.

In regard to Claim 11, the Examiner asserts that "a ledge" is merely inferentially included in the claim and not positively recited. Applicants have amended Claim 11 to positively recite "a ledge." Accordingly, Applicants submit that amended Claim 11 is in compliance § 112, second paragraph, and respectfully request that this rejection be withdrawn.

In regard to Claim 16, the Examiner asserts that the claim is indefinite because "said first medical implement" is not the one to be connected at that portion of the valve. Applicants respectfully disagree with the Examiner and traverse this rejection. Claim 16 recites:

16. The medical valve in accordance with Claim 10, wherein said piston has a head for engagement by said first medical implement, said head having a slanted surface.

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Figures 11 and 12 of the application show a piston 42 having a head 56 with a slanted surface. A first medical implement 26 is inserted into an opening adapted to receive the first medical implement. In Figure 12, the first medical implement 26 is shown in engagement with the head 56. Thus, the figures show all of the elements of the claim. Accordingly, Applicants submit that Claim 16 is not indefinite and respectfully request that this rejection be withdrawn.

Claims - § 102 Rejection

The Examiner rejected Claims 8, 10-15, 18-24, and 39 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,730,418 to Feith et al. The Examiner asserts that Feith discloses a medical connector comprising a body 12; a cavity at 81, 38 in communication with a second implement; an opening 21 adapted to receive a first medical implement; and a sealing element 14 positioned within the body and movable between a first position in which the seal prevents fluid flow through the body and a second position in which fluid flow is permitted through the body. Applicants have amended Claims 8 and 39 to further clarify Applicants' invention.

An anticipation rejection under § 102 requires that "every element of the claimed invention must be identically shown in a single reference." In re Bond, 910 F.2d 831 (Fed. Cir. 1990). "There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." Scripps Clinic & Research Foundation v. Genentech, Inc., 927 F.2d 1565 (Fed. Cir. 1991).

In this case, Feith does not disclose every element of the rejected claims, as amended. Amended Claim 8 recites, inter alia, a rigid sealing element. One advantage of a rigid sealing element is that it performs more predictably and reliably compared to non-rigid designs. A non-rigid sealing element can get caught against portions of the valve body, such as sharp corners or edges thereof, causing the sealing element to get stuck. Another advantage of a rigid sealing element is that it lasts longer than a non-rigid sealing element, which tends to wear and fail due to repetitive use.

In contrast to the claimed invention, Feith discloses a medical connector 10 including a rubber (non-rigid) valve plug 14. As seen clearly in Figures 1 and 2, the valve plug 14 bends when an actuator 90 is inserted into the connector body. Feith does not disclose or suggest the use of a non-rigid sealing element as claimed. Accordingly, Applicants submit that Claim 8 is not anticipated by Feith and respectfully request that this rejection be withdrawn.

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Applicant submits that Claims 10-15 and 18-24 are allowable a fortiori for substantially the same reasons presented above. These claims depend from and therefore include all of the limitations of Claim 8, which is believed to patentably distinguish over Feith. Feith does not identically disclose all of the elements recited by independent Claim 8, let alone the additional unique combinations of features recited by Claims 10-15 and 18-24. Accordingly, Applicants respectfully request that the rejections of Claims 10-15 and 18-24 be withdrawn.

Like Claim 8, Claim 39 recites, inter alia, a rigid seal. Feith does not disclose or suggest a rigid seal. Accordingly, Applicants submit that Feith does not anticipate Claim 39 and respectfully request that this rejection be withdrawn.

New Claims

The Examiner indicated that Claims 16 and 17 would be allowable if rewritten to overcome the above-noted rejection(s) under 35 U.S.C. § 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. New Claims 40 and 41 correspond to Claims 16 and 17, rewritten as suggested by the Examiner.

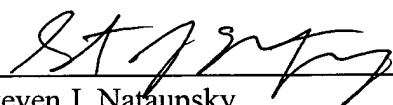
CONCLUSION

For the reasons presented above, Applicants respectfully submit that this application, as amended, is in condition for allowance. If there is any further hindrance to allowance of the pending claims, the Examiner is invited to contact the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410. A duplicate copy of this sheet is enclosed.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 15, 2000

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